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10/776,776	02/11/2004	Hirotaka Shiiyama	1232-5284	3234

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EXAMINER	
HERNANDEZ, NELSON D	
ART UNIT	**PAPER NUMBER**
2622	

NOTIFICATION DATE	DELIVERY MODE
09/13/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/776,776	SHIIYAMA, HIROTAKA	
	Examiner	Art Unit	
	Nelson D. Hernandez	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,10,12-24 and 26-31* is/are pending in the application.

4a) Of the above claim(s) *7-9,11,25 and 32-43* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,10,12-16,18-24 and 26-31* is/are rejected.

7)☒ Claim(s) *17* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *See Continuation Sheet*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/13/07, 11/30/05, 8/10/05 & 10/6/04.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species 1 (Figs. 1-4; claims 1-6, 10, 12-24 and 26-31) in the reply filed on August 22, 2007 is acknowledged. The traversal is on the ground(s) that no serious burden has been placed on the Examiner in examining all of the pending claims in the present application, and as a result, all of the requirements as set forth by the MPEP for properly maintaining this restriction have not been fulfilled in this case. This is not found persuasive because the different Species as indicated by the Examiner require different search areas and analysis between each other that would place a serious burden to search all the Species. As mentioned in the Requirement for Election of Species in the previous Office Action the Species are different as:

Species 1: the status information of radio tag ID acquisition is obtained while keeping the shutter button pressed halfway, and then, the shutter button is pressed completely.

Species 2: the status of radio tag ID acquisition is not output when the shutter button is pressed halfway. Instead, processing from radio tag information transmission search is executed when the shutter button is pressed completely (pressed fully).

Species 3: a radio tag excitation radio wave is sent when a radio tag information registration photographing mode is set as oppose to Species 1 and 2 wherein a radio tag excitation radio wave is sent in accordance with the state of the shutter button. In

the third embodiment, a radio tag excitation radio wave is sent when a radio tag information registration photographing mode is set.

Species 4: the radio tag itself has an internal power supply and transmits radio tag information wherein the radio tag is powered on when it is touched as opposed to Species 1-3, wherein the radio tag incorporates no independent power supply and requires a radio wave that excites power.

Species 5: the step of sending an excitation signal to a passive radio tag occurs before the shutter is operated.

Species 6: radio tag information is searched for after the photographing button is pressed and photographing operation is performed.

Species 7: using a radio tag having its own power supply and the receiving the tag signal after image processing has been performed.

Species 8: steps are different from steps Species 4 since the steps are related to a passive radio tag and also having a different determination process.

Species 9: determination processing different for determination processing in Species 8.

Species 10: determination processing different for determination processing in Species 8 and 9.

Species 11: the radio tag of an article in a container such as a vessel whose contents are invisible is detected, and the image of the article is displayed. Since the article inside can be known without opening the vessel, for example, a thing can be prevented from being left behind.

Species 12: the radio tag of an article to be distributed is detected, and the image of the article or the image of a portion having a characteristic feature usable for authenticity determination is displayed so that a changed radio tag or a potential forgery can be detected.

The requirement is still deemed proper and is therefore made FINAL.

The Applicant is reminded that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 19 and 20** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 19, claim 19 recites "A program which controls a photographing apparatus which comprises information acquisition means for acquiring radio information from information transmission means, the information transmission means being attached to a subject to store predetermined information and transmit the predetermined information as the radio information, wherein both photographing of the subject and acquisition of the radio information by the information acquisition means

can be executed on the basis of an operation of a common operation section". A program as claimed is not tangible embodied on the photographing apparatus. Since a computer program is merely a set of instructions capable of being executed by a computer or another device, the program logic itself is not a process; therefore the invention as claimed is non-statutory. Further more, the program as claimed appears to be controlling the camera. Is the program meant to control the operation of the camera as recited in claim 18?

Regarding claim 20, claim 20 recites "A computer-readable storage medium storing a program of claim 19". "A computer-readable storage medium" as claimed does not define structural and functional interrelationships between the data structure, the computer software and hardware components, which permit the data structure to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the program logic itself is not a process; therefore the invention as claimed is non-statutory. For examining purposes the claim will be read as "A computer readable storage medium having recorded thereon the program of claim 19. (Note that claim 19 has also been rejected under 35 U.S.C. 101).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1-6, 13, 15, 18-20 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura, US Patent 6,337,951 B1.

Regarding claim 1, Nakamura discloses a photographing apparatus (Fig. 1: 20) comprising: information acquisition means (Fig. 1: 29) for acquiring radio information from information transmission means (Fig. 1: 10), the information transmission means being attached to a subject (i.e. individual cages in a zoo) to store predetermined information and transmit the predetermined information as the radio information (Col. 3, lines 10-53), wherein both photographing of the subject and acquisition of the radio information by said information acquisition means are executed on the basis of an operation of a common operation section (As shown in Fig. 3, when the release switch is half-depressed, the information is read from the information transmission means and when the release switch is full-depressed, the camera capture the image of the subject (Col. 4, lines 14-43)) (Col. 3, line 10 – col. 5, line 9; col. 6, lines 16-40; col. 7, lines 29-63).

Regarding claim 2, Nakamura discloses a photographing apparatus (Fig. 1: 20) comprising: information acquisition means (Fig. 1: 29) for acquiring radio information from information transmission means (Fig. 1: 10), the information transmission means

being attached to a subject (i.e. individual cages in a zoo) to store predetermined information and transmit the predetermined information as the radio information (Col. 3, lines 10-53), wherein both image information obtained by photographing the subject and the radio information by said information acquisition means are acquired on the basis of an operation of a common operation member (As shown in Fig. 3, when the release switch is half-depressed, the information is read from the information transmission means and when the release switch is full-depressed, the camera capture the image of the subject (Col. 4, lines 14-43)), and the image information and the radio information are paired and stored (Col. 4, lines 14-43) (Col. 3, line 10 – col. 5, line 9; col. 6, lines 16-40; col. 7, lines 29-63).

Regarding claim 3, Nakamura discloses communication to acquire the radio information from the information transmission means is started in a time before image sensing processing for executing photographing of the subject (See fig. 5; col. 4, line 59 – col. 5, line 9) and acquisition of the radio information, and when the communication has successfully been done, processing shifts to the image sensing processing (See fig. 5; col. 4, line 59 – col. 5, line 9).

Regarding claim 4, Nakamura discloses that the time before image sensing processing is a time after a photographing instruction operation (See fig. 3). Grounds to reject claim 1 apply here.

Regarding claim 5, limitations can be found in claim 1.

Regarding claim 6, limitations can be found in claim 1.

Regarding claim 13, Nakamura discloses determination means for, when the communication to acquire the radio information from the information transmission means has successfully been done, determining before processing shifts to the image sensing processing whether the radio information can uniquely be specified (using data checking switch 26b to verify whether the data has been received, see fig. 3) (Col. 4, lines 14-43).

Regarding claim 15, Nakamura discloses that the information acquisition means is a radio tag detector (Fig. 1: 29), which is arranged and attached at a position where a sufficient sensitivity can be maintained when the photographing apparatus is set in a photographing direction (this is taught in Nakamura since the electric wave receiver 29 is shown as an antenna to receive the information for the transmission means where the sensitivity is dependent on the distance between the camera and the object being photographed).

Regarding claim 18, claim 18 is a method claim of the apparatus of claim 1. Nakamura discloses the same as in claim 1.

Regarding claim 19, claim 19 requires a program controlling the operation of the imaging device in claim 1. Limitations can be found in claim 1.

Regarding claim 20, limitations can be found in claim 1.

Regarding claim 31, Nakamura discloses a photographing apparatus (Fig. 1) comprising: a photographing optical unit (Nakamura discloses that camera 20 is a IX 240 type camera; IX 240 type camera uses a lens to form an image of a subject) to form an image of a subject; image sensing means (Fig. 1: 22) for sensing the image formed

through said photographing optical unit; a radio tag detection device (Fig. 1: 29) which detects a radio tag; and control means for causing said image sensing means to execute an image sensing operation when the radio tag is detected by said radio tag detection device (See figs. 3-5; col. 3, line 10 – col. 5, line 9; col. 6, lines 16-40; col. 7, lines 29-63).

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 21, 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Hoshino et al, US 2003/0095032 A1.

Regarding claim 21, Hoshino et al. discloses a photographing apparatus (fig. 5B) comprising: a photographing optical unit (Fig. 4B: 18a) to form an image of a subject; image sensing means (Fig. 4B: 18) for sensing the image formed through said photographing optical unit; and a radio tag detection device (Fig. 4B: 21) which has a directivity to detect a radio tag that is present in an image sensing direction of said image sensing means (See fig. 5B; page 5, ¶ 0056 – page 6, ¶ 0064).

Regarding claim 28, Hoshino et al. discloses a detection section of said radio tag detection device is arranged, on the photographing apparatus, near said

photographing optical unit and on the same surface side as that of said photographing optical unit (See fig. 4B and 5B).

Regarding claim 29, Hoshino et al. discloses a photographing apparatus (Fig. 4B) comprising: a photographing optical unit (Fig. 4B: 18a) to form an image of a subject; image sensing means (Fig. 4B: 18) for sensing the image formed through said photographing optical unit; a radio tag detection device (Fig. 4B: 21) which detects a radio tag; and display means (Fig. 4B: 12) for displaying a detection result by said radio tag detection device in accordance with an operation of an operation member to cause said image sensing means to execute an image sensing operation (in the event when the tag cannot be successfully read, the portable device would display a message of whether the tag has been read or not, so that the user have to move the portable device closer to the object to recapture the information) (Page 5, ¶ 0056 – page 6, ¶ 0064).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura, US Patent 6,337,951 B1 in view of Needham, US Patent 7,248,285 B2.

Regarding claim 10, Nakamura does not explicitly disclose that the communication to acquire the radio information from the information transmission

means is started by sending an excitation radio wave to the information transmission means.

However, Needham discloses a photographing apparatus (Fig. 1: 105) that captures images of an object and also transmit an excitation signal to an RFID tag (Fig. 1: 120) attached to said object being photographed to power said tag to supply information about the object being photograph to the camera so that the images can be associated to information about the object being photographed (Col. 2, lines 11-58).

Therefore, taking the combined teaching of Nakamura in view of Needham as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Nakamura to have the communication to acquire the radio information from the information transmission means started by sending an excitation radio wave to the information transmission means. The motivation to do so would have been to improve the operation of the information transmission means by using a system that would allow to save cost of batteries or other power supplies to power said information transmission means.

10. Claims 12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura, US Patent 6,337,951 B1 in view of Hoshino et al. US 2003/0095032 A1.

Regarding claim 12, Nakamura does not explicitly disclose means for, when the communication to acquire the radio information from the information transmission

means has failed, warning or advising a user without shifting processing to the image sensing processing.

However, Hoshino et al. discloses a portable device comprising a camera (Fig. 5B: 18) and an ID reading antenna to read information from a tag (See fig. 1) attached to an object being captured with the camera, wherein the directivity of the ID reading antenna area is narrow and points toward the object being captured with the camera (See fig. 5B), in the event when the tag cannot be successfully read, the portable device would display a message of whether the tag has been read or not, so that the user have to move the portable device closer to the object to recapture the information (Page 5, ¶ 0056 – page 6, ¶ 0064).

Therefore, taking the combined teaching of Nakamura in view of Hoshino et al. as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Nakamura to have means for, when the communication to acquire the radio information from the information transmission means has failed, warning or advising a user without shifting processing to the image sensing processing. The motivation to do so would have been to improve the performance of the photographing apparatus by allowing the user to accurately capture the information related to the object being capture and to have said user aware whether said information has been received to compare it to the object being captured.

Regarding claim 14, limitations can be found in claim 12.

Regarding claim 16, limitations can be found in claim 12.

11. Claims 22-24, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino et al. US 2003/0095032 A1 in view of Nakamura, US Patent 6,337,951 B1.

Regarding claim 22, Hoshino et al. does not explicitly disclose control means for controlling an image sensing operation by the photographing apparatus and a detection operation by said radio tag detection device in synchronism with each other.

However, Nakamura discloses a photographing apparatus (Fig. 1: 20) comprising: information acquisition means (Fig. 1: 29) for acquiring radio information from information transmission means (Fig. 1: 10), the information transmission means being attached to a subject (i.e. individual cages in a zoo) to store predetermined information and transmit the predetermined information as the radio information (Col. 3, lines 10-53), wherein both photographing of the subject and acquisition of the radio information by said information acquisition means are executed on the basis of an operation of a common operation section (As shown in Fig. 3, when the release switch is half-depressed, the information is read from the information transmission means and when the release switch is full-depressed, the camera capture the image of the subject (Col. 4, lines 14-43)) (Col. 3, line 10 – col. 5, line 9; col. 6, lines 16-40; col. 7, lines 29-63).

Therefore, taking the combined teaching of Hoshino et al. in view of Nakamura et al. as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoshino et al. to have control means for controlling an image sensing operation by the photographing apparatus and a detection operation

by said radio tag detection device in synchronism with each other. The motivation to do so would have been to accurately relate the image data to the information received with the radio tag detection at the time of image capture.

Regarding claim 23, limitations can be found in claim 22.

Regarding claim 24, limitations can be found in claim 22.

Regarding claim 26, the combined teaching of Hoshino et al. in view of Nakamura et al. as discussed and analyzed in claim 22 teaches storage means for storing the image sensed by said image sensing means and a detection result from said radio tag detection device in association with each other (See Nakamura, col. 3, line 10 – col. 5, line 9; col. 6, lines 16-40; col. 7, lines 29-63).

Regarding claim 27, claim 27 is written in a Markush type by using the expression "contains at least one of radio tag ID information, a pointer to the image, an image size (vertical and horizontal sizes or the number of bytes), an image ID uniquely assigned to the image, and a date", meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

Hoshino et al. discloses radio tag ID information and a date (See fig. 13A).

12. Claims 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino et al. US 2003/0095032 A1 in view of Goldberg, US Patent 6,526,158 B1.

Regarding claim 30, Hoshino et al. does not explicitly disclose that the control means for controlling to inhibit the image sensing operation in accordance with the detection result.

However, Goldberg discloses a method for remote controlled photography, comprising: providing a user with an identifying tag (Fig. 2: 49; see also figs. 4a-4d; col. 6, lines 25-65), wherein the identifying tag contains user's personal information (user's unique identification code; Goldberg also teaches that the tag may include the name of the user (See fig. 4f), wherein the a camera device capture an image of the user and performs optical character recognition of the user's tag so as to obtain the user's name to transmit the captured image along with the user information (tag identifier; which as explained before, it can be user's name); see also col. 14, lines 17-50); using one or more photo-video acquisition devices (Fig. 2: 63) to capture images of the user to be viewed on a remote device (Fig. 2: 39); using the identifying tag to identify the user (Goldberg discloses that the user's information in the tag is used to identify the user to annotate the captured image with the information of said user; See figs. 3-5; col. 10, line 56 - col. 11, line 49; col. 14, lines 17-50); reading the personal information from the identifying tag by the one or more photo-video acquisition devices (col. 10, line 56 - col. 11, line 49; Goldberg discloses that the camera capture the image data from the user and identifies (i.e. user using OCR) the user from the identifying tag); wherein when the user wearing the tag comes into range to an id reader in communication with the

camera, the camera captures the image of the person and send the image to a database for annotation with information of the person (See figs. 3-5; col. 10, line 56 - col. 11, line 49; col. 14, lines 17-50) (This teaches the limitations of having a control means for controlling to inhibit the image sensing operation in accordance with the detection result since the operation of the camera is inhibited while the tag is out of range or is not detected).

Therefore, taking the combined teaching of Hoshino et al. in view of Goldberg as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoshino et al. by having the control means for controlling to inhibit the image sensing operation in accordance with the detection result. The motivation to do so would have been to ensure that both the image and the tag information are captured for further annotation so that the image and the information can be correlated.

Allowable Subject Matter

13. **Claim 17** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 17, the main reason for indication of allowable subject matter is because the prior art fails to teach or reasonably suggest that the apparatus has a

normal photographing mode in which the subject is photographed and a radio information registration photographing mode in which an image obtained by photographing the subject and the radio information from the subject are acquired, and when the radio information registration photographing mode is selected, the photographing mode is automatically switched to a macro-photographing mode.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernandez whose telephone number is (571) 272-7311. The examiner can normally be reached on 9:30 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nelson D. Hernandez
Examiner
Art Unit 2622

NDHH
August 29, 2007

LIN YE
SUPERVISORY PATENT EXAMINER